

DEVELOPING IN
CASTLEGAR

A GUIDE TO PROCEDURE

Any person being the owner of land or having the written permission of the owner may apply to the Board of Variance.®

Under the *Municipal Act*, where a local government has adopted a Zoning Bylaw, it must establish a Board of Variance.

The Board of Variance is an independent and impartial body whose purpose is to consider each application and render a decision once the applicant and any other person who believes their interest in property is affected by the application have been heard.

The Municipal Act requires that the Board of Variance consist of one person appointed by the City, one person appointed by the Minister of Municipal Affairs, and one person appointed by the other 2 appointees.

The Board of Variance will consider applications where the applicant alleges that:

- (a) compliance with the provisions of the Zoning Bylaw, Mobile Home Park Bylaw or Subdivision Control Bylaw or a prohibition of a structural alteration or addition to a non-conforming use will cause an undue hardship; or
- (b) the determination of the Building Inspection Department of the amount of damage to a non-conforming building or structure is in error.

The Board of Variance cannot vary the permitted uses or densities under the Zoning Bylaw nor can it deal with major variations that should be the subject of a Development Variance Permit.

All applications are submitted to the Development Services Department on the prescribed application form, along with an application fee of \$100.

Adjacent property owners and tenants in occupation will be notified about the application and any person who believes their interest in property is affected will be heard by the Board of Variance.

For additional information please contact:

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**The following guide is intended to generally illustrate the procedure involved
in applying to the Board of Variance.**

PROCEDURE FOR BOARD OF VARIANCE APPLICATIONS

1. The applicant makes preliminary enquiries to the Development Services Department regarding the proposed application.

2. If the applicant alleges that

i) compliance to the applicable bylaw(s) would cause an undue hardship, or

ii) an error respecting the amount of damage to a non-conforming use,

the applicant completes the form "Application to the Board of Variance" and submits a copy of the site plan, floor plan, elevation plan or other plans as required to support the application, along with the \$100 Board of Variance application fee.

3. The application is processed by the City Clerk who acts as Secretary of the Board of Variance. The Chairman of the Board of Variance shall set a date when the hearing will be held.

4. The Development Services Department reviews the application and prepares a report to the Board of Variance. The applicant may be required to submit additional information for review and presentation to the Board of Variance.

5. City staff will notify all the owners and tenants in occupation of land that is the subject of the application and adjacent to it which might be affected, giving at least seven (7) days notice of the hearing.

6. The applicant is advised of the date and time of the Board's hearing and advised to attend the meeting or have a representative appear on his/her behalf.

7. At the Board of Variance hearing, the applicant will be afforded the opportunity to present his/her application. Then any other person who believes that their interest in property is affected by the application will be heard as directed by the Chairman of the Board. If the applicant or his/her representative fails to appear at the hearing, the Board may proceed to decide on the application in their absence.

8. Upon considering an application, the Board of Variance may:

\$ approve the minor variation.

\$ set aside the determination of the Building Inspection Department.

\$ deny the application.

\$ adjourn the hearing.

\$ order that a public notice be advertised in the newspaper and consider the application at a later time.

9. The applicant, as well as all persons who made representations at the hearing, are notified of the Board's decision.

THE BOARD of VARIANCE

\$ The members of the Board of Variance shall elect one of their numbers as Chairman.

\$ An appointment to the Board of Variance is for a term of 3 years.

\$ A member of the Board of Variance shall not receive compensation for his services as a member.

\$ A person who is

(a) a member of the Advisory Planning Commission of the local government, or

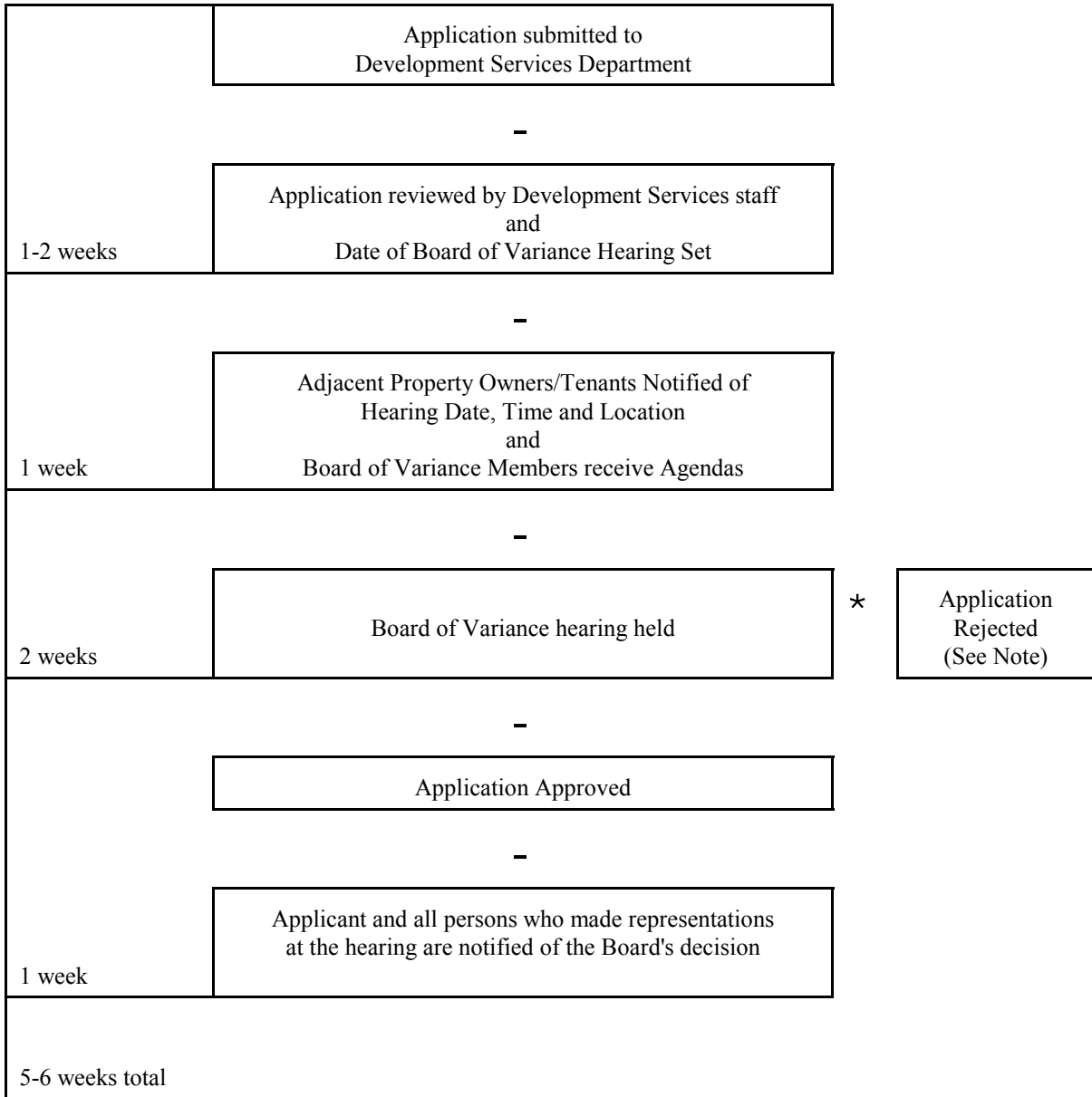
(b) an officer or employee of the local government

is not eligible to be appointed to a Board of Variance.

BOARD OF VARIANCE APPLICATIONS

FLOW CHART

ESTIMATED TIME



NOTE: The decision of the Board of Variance is final, unless involving the determination of the amount of damage to a non-conforming building or structure in which case an appeal can be made to the Supreme Court.

NOTES:

NOTE: This pamphlet is prepared for information purposes only and the City of Castlegar disclaims any liability arising from reliance on information contained in this guide. This pamphlet is not a procedures manual pursuant to Section 895 of the Municipal Act.